

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

LOCAL UNION NO. 825, affiliated with the
INTERNATIONAL UNION OF OPERATING
ENGINEERS, AFL-CIO, and THE BOARD OF
TRUSTEES OF THE INTERNATIONAL
UNION OF OPERATING ENGINEERS,
LOCAL 825 PENSION FUND, THE IUOE
LOCAL 825 WELFARE FUND, THE IUOE
LOCAL 825 APPRENTICESHIP TRAINING
AND RETRAINING FUND, THE IUOE LOCAL
825 SUPPLEMENTAL UNEMPLOYMENT
BENEFIT FUND, THE IUOE LOCAL 825
SAVINGS FUND, THE IUOE LOCAL 825
ANNUITY FUND,

Plaintiffs

vs.

LANDSCAPE UNLIMITED, INC.

Defendant

Civil Action No.: 08-CV-00590
(SCR)

ANSWER TO COUNTERCLAIM

Plaintiff/Defendant-Counterclaimant, The Boards of Trustees of the International Union of Operating Engineers Local 825 Pension Fund, The IUOE Local 825 Welfare Fund, The IUOE Local 825 Apprenticeship Training and Retraining Fund, The IUOE Local 825 Supplemental Unemployment Benefit Fund, The IUOE Local 825 Savings Fund and the IUOE Local 825 Annuity Fund (hereinafter "the Funds"), through its attorneys, Cohen, Leder, Montalbano & Grossman (Paul A. Montalbano appearing) in answer to Defendant's Counterclaim, does hereby state:

1. The Funds deny the allegations set forth in paragraph 56 of the Counterclaim.
2. The Funds deny the allegations set forth in paragraph 57 of the Counterclaim.

AFFIRMATIVE DEFENSES:

1. Defendant/Plaintiff-Counterclaimant, Landscape Unlimited, Inc., has failed to properly plead issues of Jurisdiction and Venue.

2. Defendant/Plaintiff-Counterclaimant, Landscape Unlimited, Inc., has failed to state a cause of action for which relief may be granted.

WHEREFORE, for all of the above reasons, Plaintiff/Defendant-Counterclaimant, The Boards of Trustees of the International Union of Operating Engineers Local 825 Pension Fund, The IUOE Local 825 Welfare Fund, The IUOE Local 825 Apprenticeship Training and Retraining Fund, The IUOE Local 825 Supplemental Unemployment Benefit Fund, The IUOE Local 825 Savings Fund and the IUOE Local 825 Annuity Fund, demands that judgment be entered dismissing the Counterclaim in its entirety together with counsel fees, costs, and such other relief as the Court deems just and proper.

COHEN, LEDER, MONTALBANO & GROSSMAN, LLC
Attorneys for Plaintiff/Defendant-Counterclaimant, The
Boards of Trustees of the International Union of
Operating Engineers Local 825 Pension Fund, The
IUOE Local 825 Welfare Fund, The IUOE Local 825
Apprenticeship Training and Retraining Fund, The
IUOE Local 825 Supplemental Unemployment Benefit
Fund, The IUOE Local 825 Savings Fund and the IUOE
Local 825 Annuity Fund

By: _____

PAUL A. MONTALBANO

Dated: March 28, 2008